**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**
**CRIMINAL APPLICATION NO.5368 OF 2005**

Tukaram Krishnaji Rajgire ...Applicant
vs.
State of Maharashtra & Anr. ...Respondents

Mr.S.D.Sharmadhikari for the Applicant
Ms M.H.Mhatre, A.P.P. for State

**CORAM: A.S.OKA,J.**
**DATE : OCTOBER 24,2005**

**P.C.:**

1. Heard learned A.P.P. appearing for the Respondent No.1. The Applicant is an accused in a complaint filed under Section 138 of the Negotiable Instruments Act, 1881. The learned Magistrate convicted the Applicant for offence punishable under Section 138 of the said Act of 1881 and sentenced him to suffer simple imprisonment for six months. The Applicant was directed to pay compensation of Rs.1,81,500/- to the original complainant. An Appeal was preferred by the Applicant to the Sessions Court for challenging the conviction and sentence. In the said Appeal, an application was made under Section 389 of the Code of Criminal Procedure, 1973. By order dated 25th July 2005, substantive sentence of imprisonment was suspended by the Additional Sessions Judge provided the Applicant deposits the amount of compensation and costs on furnishing P.R.Bond of Rs.15,000/- with one surety. The office noting shows that the Respondent No.2 is served with the notice.

2. Shri Dharmadhikari for the Applicant on instructions of the Applicant states that the Applicant will need more than two months time to deposit the balance compensation amount.

He pointed out that as directed by this Court by order dated 29th August 2005, a sum of Rs.25,000/- has been deposited by the Applicant in the Trial Court.

3. The Applicant has shown willingness to deposit the balance amount of compensation. The age of the Applicant is stated to be 70 years. The Applicant has already deposited a sum of Rs.25,000/-. In my view, time deserves to be granted to the Applicant to deposit the balance amount.

4. Hence I pass the following order :

i) The order dated 25th July 2005 passed by the learned Additional Sessions Judge, Gadhinglaj below Application at Exh.5-D in Regular Appeal No.10 of 2005 is modified by directing that time is granted to the Applicant to deposit the balance amount of compensation of Rs.1,56,500/- till 30th January 2006.

ii) If the Applicant fails to deposit the amount on or before the 30th January 2006, the Applicant will have to surrender.

iii) If the Appeal is ready for hearing, the Appellate Court will be free to proceed with the hearing of the Appeal even before the time granted by this Court expires.

. Parties and the concerned Court to act upon an authenticated copy of this order.

**JUDGE**